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Kathryn Cerise
Project Manager, Office of Environmental Cleanup
U.S. Environmental Protection Agency, Region 10
1200 6th Avenue, Suite 900 MS (ECL-122)
Seattle, WA 98101

VIA ELECTRONIC MAIL ONLY

Dear Ms. Cerise:

We all recognize that conducting a Remedial Investigation & Feasibility Study (RI/FS) for a site as large and complex as the Upper Columbia River/Lake Roosevelt Site (UCR Site) in a way that meets or exceeds relevant technical standards and agency guidance, as well as the obligation to the public to timely assess risk and inform them accordingly, is a substantial undertaking. The Site is large and heterogeneous, there are multiple relevant lines of evidence and massive amounts of data, and the bioavailability of the chemicals of concern is not easily evaluated.

In March of last year we met formally to discuss, among other things, communication challenges we were experiencing, particularly with respect to technical matters involving sediments, which were an impediment to the effective and efficient conduct of the RI/FS. The March 2017 meeting followed your “statement of finding” in December 2016, which purported to have determined the presence of unacceptable risk to benthos from sediments, though at that time, the ecological risk assessment contemplated by the Settlement Agreement Work Plan had not been commenced. In fact, we had only days before received EPA’s comments on the Phase 2 Sediment Study Data Summary Report, which EPA had been reviewing with the Participating Parties for a year. The “statement of finding” itself was not something EPA had discussed with Teck American Incorporated (TAI); troublingly, we learned of it from third parties instead.

We found that the March 2017 meeting presented an important opportunity to confirm our common goal of expeditiously completing the RI/FS. We left with an understanding that EPA recognized the importance of communicating more effectively and transparently with TAI as the work-performing party, as well as reviewing TAI’s deliverables on a more timely basis.



To that end, we began a series of technical meetings for the purpose of making progress on sediments, and in particular, to ensure that EPA and TAI have common understandings regarding approaches, data usability and other critical technical matters as TAI begins the BERA. Despite our best efforts, however, and our understanding that EPA, too, was committed to a collaborative technical process, we continue to be concerned by substantial communications challenges and a lack of transparency.

As the most significant example, on Tuesday, January 9, 2018 we received a Level of Effort (LOE) directive to develop a Quality Assurance Project Plan for a “nature and extent” sediment study within sixty (60) days. TAI had no input to or prior notice of this LOE and was completely blindsided. Rather, we had been preparing for our next sediments technical meeting with EPA today and tomorrow, which we understood would inform the path forward with respect to sediments. In fact, we spoke on Monday, January 8, 2018 to refine the agenda for that meeting, and you gave no indication that you intended to issue an LOE, much less imminently and prior to our sediments meeting.

This is extremely unfortunate, and as a result, we have had no choice but to lodge a dispute today. As indicated in our dispute, we believe the LOE is premature, fails to adequately account for the already-available data, gives disproportionate weight to the Washington State sediment management standards, and will have the unintended effect of delaying rather than expediting the completion of the RI/FS.

Compounding our concerns regarding transparency, the LOE indicates that EPA apparently is hosting an entirely separate GIS project database, which has not been shared with TAI, and is inappropriately relying on information generated outside the RI/FS by the State and Colville Tribes in their lawsuit against Teck Metals Ltd. In addition to the problem of EPA’s reliance on data and information generated for plaintiffs’ litigation purposes outside the transparency and technical rigor of the NCP-consistent RI/FS process, the fact that EPA and TAI are not even working from common databases when TAI is the work-performing party is simply untenable and needs to be addressed.

In addition, the LOE embodies a great deal of technical work product done by EPA and its consultants, with input from the Participating Parties but without input from TAI and without visibility to TAI. This is inconsistent with our respective roles under the Settlement Agreement, in which TAI is the work-performing party and is specifically responsible for the Baseline Ecological Risk Assessment. Having spent over US \$85 million on RI/FS activities in a complicated, transparent and rigorous process under EPA oversight that includes the



Participating Parties' input to all RI/FS studies, we find it extremely disappointing that a parallel process outside the Settlement Agreement appears to be driving decision-making.

Again, we find these developments regrettable and counterproductive. Had there been appropriate communication and transparency consistent with the process contemplated by the Settlement Agreement, this dispute likely could have been avoided and our collective resources better spent advancing the UCR RI/FS. TAI remains committed to the expeditious resolution of the RI/FS and advancement toward the Record of Decision.

We urge EPA to withdraw the LOE and address the communication and transparency problems undermining the UCR RI/FS.

Sincerely,

Teck American Incorporated

A handwritten signature in blue ink that reads "Kris R. McCaig".

Kris R. McCaig
Manager, Environment and Public Affairs

cc: Christian Baxter, Teck Resources Ltd., Vancouver B.C.
Cami Grandinetti, EPA, Seattle, WA